

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 606 - SB 672

April 2, 2009

SUMMARY OF BILL: Broadens the definition of “dangerous felony” to include attempt to commit first degree murder for the offense of possessing a firearm during the commission or attempt to commit a dangerous felony.

ESTIMATED FISCAL IMPACT:

On March 24, 2009, we issued a fiscal note indicating an *increase in state expenditures - \$297,100/incarceration**. Based on further review and additional information provided by the Department of Correction (DOC), the average number of admissions for this offense has been corrected to reflect 38 rather than 34 and the appropriate percentages have also been corrected. These corrections do not change the fiscal impact of this bill and it remains as follows:

(CORRECTED)

Increase State Expenditures – \$297,100/Incarceration*

Assumptions:

- Currently it is a Class D felony for a person to possess a firearm with the intent to go armed during the commission of or attempt to commit a dangerous felony. It is a Class C felony to employ a firearm during the commission of, attempt to commit, flight or escape from the commission of, or flight or escape from the attempt to commit a dangerous felony. The minimum sentences range from three to 10 years, depending on the defendant’s criminal history.
- According to the Department of Correction (DOC), there has been an average of 38 admissions for the Class A felony offense of criminal attempt to commit first degree murder in each of the past 10 years. DOC estimates 50 percent (19) involved the employment of a firearm during the commission of a dangerous felony. The average length of sentence for an offender convicted of criminal attempt to commit first degree murder is 17.44 years and the average post-conviction time served is 11.77.
- Because the average time served for attempt to commit first degree murder is longer than the sentence for the firearms offenses, the additional incarceration costs will result from those offenders who

HB 606 - SB 672 (CORRECTED)

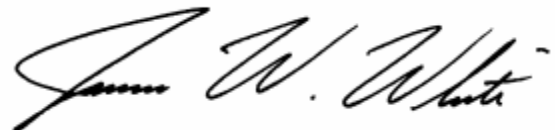
receive a consecutive sentence for possessing a firearm during an attempt to commit first degree murder.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 21 offenders. DOC estimates 25 percent of those (5) had a prior conviction.
- According to the Department, 42 percent of offenders will re-offend within three years of their release. A recidivism discount of 42 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (5 offenders x 42% recidivism discount = 2.1 offenders).
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per offender at 8.5 years is \$185,656.87 (\$59.80 x 3,104.63 days). One offender will receive a consecutive sentence and will serve an additional 10-year minimum sentence at 85 percent (8.5 years) as a result of this bill. The total additional operating cost for one offender is \$185,656.87.
- The remaining 16 offenders would serve a six-year minimum sentence at 85 percent (5.1 years). A recidivism discount of 42 percent (16 offenders x 42% recidivism discount = 7 offenders) will result in nine offenders (16 – 7). One offender will receive a consecutive sentence and will serve an additional six-year minimum sentence at 85 percent (5.1 years). The cost per offender at 5.1 years is \$111,394.24 (\$59.80 x 1,862.78 days). The total additional operating cost for one offender is \$111,394.24.
- Any impact to the caseloads for the state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc